

### ***Remarks***

Reconsideration of the application is respectfully requested.

FIGS. 14 and 15 are sought to be added to show an optical element with a diffractive characteristic, specifically a lens or mirror with a diffractive characteristic, respectively.

Claims 17-18 have been cancelled without prejudice or disclaimer. Applicant reserves the right to prosecute similar or broader claims in a divisional or continuation application. Claim 1 has been amended. Upon entry of the foregoing amendment, claims 1-8 and 19-23 are pending in the application, with claim 1 being the sole independent claim. No new matter has been entered by any amendments.

### ***Objection to the Drawings***

The Examiner has objected to the drawings under 37 C.F.R. 1.83(a) as not showing every feature of the invention as specified in the claims. Applicant has added Figures 14 and 15 (copies attached and filed with a Submission of Drawings concurrently herewith) that show the features alleged to be missing by the Examiner. These figures are fully supported by the original claims and specification. Thus, no new matter has been entered by their submission. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the objection.

### ***Claims rejections under 35 U.S.C. 102(b) and 103(a)***

Claims 1-6, 8 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,395,433 to Smith ("Smith"). Claims 7 and 21-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Smith. Claim 19 was rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of U.S. Patent No. 5,982,545 to Su ("Su"). Applicant traverses all these rejections, and requests the Examiner reconsider and withdraw the rejections.

Amended independent claims 1 now recites:

1. A method of making a diffractive optical element comprising:
  - providing a substrate that transmits light having wavelengths of about 100 nm to about 300 nm without substantial attenuation of the light;
  - forming an amorphous isotropic layer on the substrate that transmits the light without substantial attenuation of the light;
  - patterning the layer; and
  - removing a portion of the layer from regions of the substrate based on the patterning, such that the diffractive optical element is formed, wherein adjacent areas of removed and unremoved portions of the layer cause diffraction of transmitted light.

Smith teaches of forming a mask or reticle that allows for patterning of transmitted light. Smith is not concerned with forming a diffractive optical element, as recited in now amended claim 1. Also, the alleged patterned amorphous isotropic layer 12 in Smith cannot have at least the characteristic that the unremoved portions allow transmission of the light without substantial attenuation of the light, as recited in claim 1. This is because throughout Smith the unremoved portions of the amorphous isotropic layer are discussed as having at least of 5% transmission, and are never discussed in Smith to have more than 15% transmission, which fails to teach or suggest the feature of claim 1 that the amorphous isotropic layer allows transmission of the light without substantial attenuation of the light. Su is not used to teach or suggest any of these features, and neither does it cure the deficiency of Smith.

Therefore, for at these reasons stated above, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 1. Also, at least based on their dependency, claims 2-8 and 19-23 should also be found allowable over the applied references.

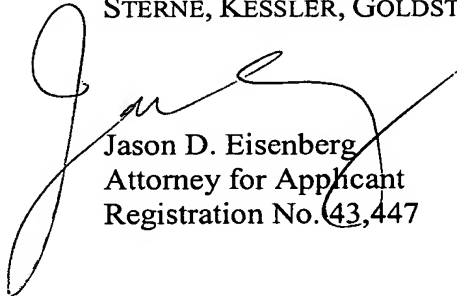
***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

  
Jason D. Eisenberg  
Attorney for Applicant  
Registration No. 43,447

Date: 3/23/05

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600  
SKGF\_DC1:373742.1

***Amendment to the Figures***

Please add Figures 14 and 15, copies of which are attached hereto and attached to the Submission of Drawings.